

Docket No.: UT-10488R

Serial No.: 10/005,374

REMARKS

Claims 1-40 are currently pending in the subject application. The claims have been amended to correct some obvious typographical errors that arose during the printing of the original document. The foregoing amendments do not add any new matter. Accordingly, in light of the amendments above, claims 1-40 will be before the Examiner for consideration.

Claims 1-40 are rejected under 35 USC §103 as being obvious over Edwards et al.; U.S. Patent No. 5,985,309 ('309 patent) and 5,874,064 ('064 patent). Applicants respectfully traverse. Applicants believe that the Patent Office has not appreciated the advancement in the art that the claimed invention represents. The references cited in the office action all relate to delivery of the particles into the alveoli. However, the claimed invention builds on the convention pulmonary delivery technology in devising novel particles and methods for effectuating vaccination in patients. The authors of the cited references, fail to contemplate, teach or suggest the novel approach to vaccination described in the subject application.

Claims 1 and 11 are directed to unique particles that comprise an immunizing or vaccinating agent. Claims 21, 30, 31, and 40 are directed to methods that involved delivery of particles comprising an immunizing agent to confer protective immunity in the recipient. Thus, while the references cited by the Examiner are related to the present invention, and are foundational to the subject invention, they do not teach or suggest the novel particles and/or methods claimed in the subject application. Thus, due to the lack of suggestion or teaching to modify the cited references to achieve the elements and characteristics of the claimed invention, the cited references do not establish a prima facie case of obvious. Applicants request reconsideration and withdrawal of the rejection under 35 USC § 103.

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Serial No.: 10/005,374

Applicants have made a diligent effort to place the claims in condition for allowance. However, should there remain unresolved issues that require adverse action, it is respectfully requested that the Examiner telephone Timothy H. Van Dyke, Applicants' Attorney at 407-240-0085 so that such issues may be resolved as expeditiously as possible.

For these reasons, and in view of the above amendments, this application is now considered to be in condition for allowance and such action is earnestly solicited.

Respectfully Submitted,

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Date



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